

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 ERIC LESANE, :
 Plaintiff, :
 :
 -against- :
 :
 CORRECTION OFFICER MOYE, :
 CAPTAIN DENIS, COMMISSIONER :
 OF THE DEPARTMENT OF :
 CORRECTIONS, :
 :
 Defendants. :
 -----x

ALVIN K. HELLERSTEIN, U.S.D.J.:

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ORDER

07 Civ. 3226 (AKH)

A review of the Court records indicates that the complaint in this action was filed on April 23, 2007, and that there is no proof of service of the summons and complaint on file. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion, or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice, as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Fed. R. Civ. Proc. 4(m) (1998).

The plaintiff is directed to have the summons and complaint served on defendants Correction Officer Moye, Captain Denis, and the Commissioner of the Department of Corrections, and proof of such service filed with the Clerk of the Court by April 15, 2009. If service is not made upon the defendants or plaintiff fails to show good cause why such service has not been effected by April 15, 2009, the Court will dismiss this action.

In addition, the Clerk of the Court is ordered to issue an amended summons indicating the extension of time, a copy of which should be served upon the defendants along with the complaint.

Finally, plaintiff is advised that the Pro Se Office at the United States Courthouse, 500 Pearl Street, Room 230, New York, New York 10007, telephone number (212) 805-0175, may be of assistance in connection with court procedures but cannot give legal advice.

SO ORDERED.

Dated: New York, New York
 February 13, 2009


ALVIN K. HELLERSTEIN
United States District Judge

Part I